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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12
13 UNITED STATES OF AMERICA,) Case No. 3-21-MJ-71960-MAG
14 Plaintiff,)
15 v.) STIPULATION AND PROTECTIVE ORDER
16 CHRISTOPHER JAMES WAGNER,) [PROPOSED]
17 Defendant.)
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19 With the agreement of the parties, the Court enters the following Protective Order:

20 Defendant is charged with Possession of Child Pornography in violation of 18 U.S.C. §

21 2252(a)(4)(B) and (b)(2). Upon receipt of a discovery request, the United States will produce documents
22 and other materials pertaining to the defendant[s] and the charged offense[s] to defense counsel. On
23 December 21, 2021, the parties in this matter entered into a protective order. Dkt. 8. The prior protective
24 order, however, did not contemplate protection of sealed court filings that contain sensitive information.
25 Accordingly, the discovery to be provided includes documents or other materials falling into one or
26 more of the following categories (collectively, “Protected Information”):

27 1. Sealed court filings that contain information regarding third parties that are targets, potential
28 targets of investigation, or ongoing investigative matters, including the following types of

1 documents if they contain such information: sealed applications, affidavits, and orders
2 authorizing search warrants; applications for and orders authorizing the interception of wire
3 and electronic communications; pen register and trap and trace applications and orders,
4 applications for and orders authorizing the provision of information pursuant to 18 U.S.C.
5 § 2703(d); and applications for and orders authorizing investigative process pursuant to the
6 All Writs Act (“Investigatory Materials”); and

7 The United States will identify discovery materials as Protected Information by marking such
8 materials “CONFIDENTIAL– SUBJECT TO PROTECTIVE ORDER” or by providing written notice
9 identifying discovery materials as Protected Information.

10 To ensure that Protected Information is not subject to unauthorized disclosure or misuse,

11 **IT IS HEREBY ORDERED** that defense counsel of record, their investigators, assistants,

12 employees, and independent contractors (collectively, “the Defense Team”) may review with the
13 defendant all discovery material produced by the government, but shall not provide a defendant with
14 copies of, or permit defendant to make copies of, or have unsupervised access to investigatory Materials
15 any discovery material produced by the government that contains Personal Identifying Information,
16 Financial Information, and/or Medical Information, unless the Personal Identifying Information,
17 Financial Information, and/or Medical Information has first been **entirely redacted** from the discovery
18 materials. The government and defense counsel are ordered to work together to ensure that these
19 materials are protected, but that defendant has as much access to the materials as can be provided
20 consistent with this Court’s order. Discovery material that clearly pertains to a specific defendant and
21 does not contain Protected Information regarding any other person (*e.g.*, defendant’s own bank records,
22 telephone records, and business records) may be provided to that defendant unredacted, with the
23 exception of Investigatory Materials.

24 The Defense Team may show witnesses Protected Information, as referenced in Paragraph 1 of
25 this order, Financial Information, and/or Medical Information in the course of preparing a defense if the
26 witness, by reason of their participation in the proceeding, would have seen or had reason to know such
27 information. Witnesses may only view Protected Information in the presence of the Defense Team. The
28 Defense Team may make derivative use of the information contained in Investigatory Materials and

1 CS/UC Information to pursue investigative leads and question witnesses in furtherance of preparing
2 possible defenses. Regarding derivative use, the Defense Team shall not disclose the source of said
3 information in any way to witnesses (including that the information came from government sources), or
4 allow witnesses to view or have a copy of Investigatory Materials.

5 Defense counsel may also discuss Protected Information to any experts retained to assist with the
6 preparation of the defense in the captioned case. The defendant, all members of the defense team, and
7 any experts who receive discovery under this Order shall be provided a copy of this Order along with
8 those materials and shall initial and date the order reflecting their agreement to be bound by it.

9 The materials provided pursuant to this protective order may only be used for the specific
10 purpose of preparing or presenting a defense in this matter, unless specifically authorized by the Court.

11 This Order shall also apply to any copies made of any materials covered by this Order.

12 **IT IS FURTHER ORDERED** that neither a defendant nor any member of the Defense Team
13 shall provide any Protected Information produced by the government to any third party (*i.e.*, any person
14 who is not a member of the defense team), except in the manner described above with respect to
15 witnesses or experts, or make any public disclosure of the same, other than in a court filing, without the
16 government's express written permission or further order of this Court. If a party files a pleading that
17 contains or attaches Protected Information subject to this Order, the Protected Information must be filed
18 under seal.

19 **IT IS FURTHER ORDERED** that after any judgment or disposition has become final and there
20 are no pending appeals counsel for the defendant shall notify the government so that the government
21 may request Protected Information subject to this Protective Order (including any copies) be returned to
22 the United States or destroyed. Upon request of the United States, counsel for defendant shall return or
23 destroy materials subject to this Protective Order (including any copies) within 14 days, unless counsel
24 for defendant can ensure that the Protected Information will continue being kept under the conditions
25 specified in this Order. To the extent the Defense Team maintains possession of the Protected
26 Information, it agrees to do so under the conditions specified in this Order. If counsel for defendant
27 returns documents and materials subject to this Order to the United States, the United States shall
28 maintain those documents and materials until the period for filing a motion under 28 U.S.C. § 2255 has

1 expired. After the statutory period for filing a motion under 28 U.S.C. § 2255 has expired, the United
2 States is free to destroy documents and materials subject to this Order. If defendant is represented by
3 counsel and files a motion pursuant to 28 U.S.C. § 2255, the United States will provide counsel with the
4 documents and materials subject to this Protective Order under the terms of this Order.

5 This stipulation is without prejudice to either party applying to the Court to modify the terms of
6 any protective order. This Court shall retain jurisdiction to modify this Order upon motion of either
7 party even after the conclusion of district court proceedings in this case.

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9 **IT IS SO STIPULATED.**

STEPHANIE M. HINDS
United States Attorney

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Dated: February 14, 2022

/s/
KENNETH CHAMBERS
Assistant United States Attorney

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/s/
DANIEL BLANK
Counsel for Defendant Christopher Wagner

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IT IS SO ORDERED.

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Dated: February 14, 2022

HON. LAUREL BEELER
United States Magistrate Judge

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